

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4818 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VAMANBHAI DALPATBHAI PATEL

Versus

B.J.GADHVI

Appearance:

MR PB MAJMUDAR for Petitioner

MR NN PANDYA for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/07/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner has challenged, by this Special Civil Application, the orders of the respondents, annexures 'E', 'F' and 'H'. The petitioner, a constable in the Police Department, was chargesheeted on the ground that he has entered into a second marriage with Hansaben Kashinath in Maharashtra on 13.5.77. The first wife is

named as Kamuben Makanbhai Patel. On this charge, inquiry was conducted and the charges were found true and consequently, the petitioner was ordered to be dismissed from the services under the order dated 18.6.81, passed by respondent No.1. The petitioner has taken up this matter in appeal before respondent No.2. The said appeal has been dismissed. The matter was taken further by the petitioner to the Government by filing a revision application, but this application has also been dismissed. All the three authorities concurrently held that the petitioner is guilty of entering into second marriage.

2. The only contention raised by the counsel for the petitioner is that the petitioner may be criminally liable for the second marriage u/s.5(1) of the Hindu Marriage Act, but for that act of the petitioner, no departmental inquiry could have been initiated. On the other hand, Shri Pandya, counsel for the respondents contended that the petitioner being a Government servant, could not have second wife and in case he entered into second marriage, then it is a disqualification for the public employment. It has further been contended that as bigamy is not permissible and in case it is committed, then it is a serious misconduct by a Government servant.

3. Having considered the submissions made by the learned counsel for the parties, I am satisfied that the petitioner has rightly been dismissed from the service and as such, no interference is called for in the orders passed by the concerned authorities. Merely because for bigamy, the petitioner may be criminally liable, will not debar the department to hold an inquiry against the petitioner. In case the Government servant, after coming into force of the Hindu Marriage Act, enters into second marriage, then certainly it is a serious misconduct. In the result, this Special Civil Application fails and the same is dismissed. Rule is discharged.

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(sunil)